

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 84 be amended to read as follows:

- 1 Page 36, between lines 20 and 21, begin a new paragraph and insert:
- 2 "SECTION 47. IC 22-4-15-6.1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. (a)
- 4 Notwithstanding any other provisions of this article, all of the
- 5 individual's wage credits established prior to the day upon which the
- 6 individual was discharged for gross misconduct in connection with
- 7 work are canceled.
- 8 (b) As used in this section, "gross misconduct" ~~includes~~ means any
- 9 of the following, as determined by the department by a
- 10 preponderance of the evidence:
- 11 (1) A felony. ~~or~~
- 12 (2) A Class A misdemeanor. ~~committed in connection with work~~
- 13 ~~but only if the felony or misdemeanor is admitted by the~~
- 14 ~~individual or has resulted in a conviction.~~
- 15 (3) Working, or reporting for work, in a state of intoxication
- 16 caused by the individual's use of alcohol or a controlled
- 17 substance (as defined in IC 35-48-1-9).
- 18 (4) Battery on another individual while on the employer's
- 19 property or during working hours.
- 20 (5) Theft or embezzlement.
- 21 (6) Fraud.
- 22 (c) An employer:
- 23 (1) has the burden of proving by a preponderance of the
- 24 evidence that a discharged employee's conduct was gross

- 1 **misconduct; and**
2 **(2) may present evidence that the employer filled or**
3 **maintained the position or job held by the discharged**
4 **employee after the employee's discharge.**
5 **(d) It is not a defense under this section that a discharged**
6 **employee's conduct did not result in:**
7 **(1) a prosecution for an offense; or**
8 **(2) a conviction of an offense."**
9 Renumber all SECTIONS consecutively.
 (Reference is to ESB 84 as printed April 10, 2009.)

Representative Leonard